

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN SENATE JUNE 25, 2015

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 668**

---

---

**Introduced by Assembly Member Gomez**

February 25, 2015

---

---

An act to amend Section 402.1 of the Revenue and Taxation Code, relating to taxation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 668, as amended, Gomez. Property taxation: assessment: affordable housing.

Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected. Under existing law these restrictions include, but are not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

Existing property tax law establishes a welfare exemption under which property is exempt from taxation if, among other things, that property is used exclusively for religious, hospital, scientific, or charitable purposes and is owned and operated by an entity, as provided, that is itself organized and operated for those purposes. Under existing property tax law, the welfare exemption applies to property that is owned and operated by a nonprofit corporation, otherwise qualifying for the welfare

exemption, that is organized and operated for the purpose of building and rehabilitating single-family or multifamily residences for sale, as provided, at cost to low-income families.

This bill would require the county assessor to consider, when valuing real property for property taxation purposes, a recorded contract with a nonprofit corporation that meets prescribed requirements, including requirements that the nonprofit corporation has received a welfare exemption for properties intended to be sold to low-income families who participate in a special no-interest loan program, and that the contract includes a restriction on the use of the land for at least 30 years to owner-occupied housing available at affordable housing cost. By changing the manner in which county assessors assess property for property taxation purposes, this bill would impose a state-mandated local program.

*This bill would incorporate amendments to Section 402.1 of the Revenue and Taxation Code proposed by AB 1251, to be operative only if AB 1251 and this bill are both chaptered and become effective on or before January 1, 2016, and this bill is chaptered last.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 402.1 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 402.1. (a) In the assessment of land, the assessor shall consider
- 4 the effect upon value of any enforceable restrictions to which the
- 5 use of the land may be subjected. These restrictions shall include,
- 6 but are not limited to, all of the following:
- 7 (1) Zoning.
- 8 (2) Recorded contracts with governmental agencies other than
- 9 those provided in Sections 422, 422.5, and 422.7.

1 (3) Permit authority of, and permits issued by, governmental  
2 agencies exercising land use powers concurrently with local  
3 governments, including the California Coastal Commission and  
4 regional coastal commissions, the San Francisco Bay Conservation  
5 and Development Commission, and the Tahoe Regional Planning  
6 Agency.

7 (4) Development controls of a local government in accordance  
8 with any local coastal program certified pursuant to Division 20  
9 (commencing with Section 30000) of the Public Resources Code.

10 (5) Development controls of a local government in accordance  
11 with a local protection program, or any component thereof, certified  
12 pursuant to Division 19 (commencing with Section 29000) of the  
13 Public Resources Code.

14 (6) Environmental constraints applied to the use of land pursuant  
15 to provisions of statutes.

16 (7) Hazardous waste land use restriction pursuant to Section  
17 25240 of the Health and Safety Code.

18 (8) A recorded conservation, trail, or scenic easement, as  
19 described in Section 815.1 of the Civil Code, that is granted in  
20 favor of a public agency, or in favor of a nonprofit corporation  
21 organized pursuant to Section 501(c)(3) of the Internal Revenue  
22 Code that has as its primary purpose the preservation, protection,  
23 or enhancement of land in its natural, scenic, historical, agricultural,  
24 forested, or open-space condition or use.

25 (9) A solar-use easement pursuant to Chapter 6.9 (commencing  
26 with Section 51190) of Part 1 of Division 1 of Title 5 of the  
27 Government Code.

28 (10) A contract where the following apply:

29 (A) The contract is with a nonprofit corporation organized  
30 pursuant to Section 501(c)(3) of the Internal Revenue Code that  
31 has received a welfare exemption under Section 214.15 for  
32 properties intended to be sold to low-income families who  
33 participate in a special no-interest loan program.

34 (B) The contract restricts the use of the land for at least 30 years  
35 to owner-occupied housing available at affordable housing cost in  
36 accordance with Section 50052.5 of the Health and Safety Code.

37 (C) The contract includes a deed of trust on the property in favor  
38 of the nonprofit corporation to ensure compliance with the terms  
39 of the program, which has no value unless the owner fails to

1 comply with the covenants and restrictions of the terms of the  
2 home sale.

3 (D) The local housing authority or an equivalent agency, or, if  
4 none exists, the city attorney or county counsel, has made a finding  
5 that the long-term deed restrictions in the contract serve a public  
6 purpose.

7 (E) The contract is recorded and provided to the assessor.

8 (b) There is a rebuttable presumption that restrictions will not  
9 be removed or substantially modified in the predictable future and  
10 that they will substantially equate the value of the land to the value  
11 attributable to the legally permissible use or uses.

12 (c) Grounds for rebutting the presumption may include, but are  
13 not necessarily limited to, the past history of like use restrictions  
14 in the jurisdiction in question and the similarity of sales prices for  
15 restricted and unrestricted land. The possible expiration of a  
16 restriction at a time certain shall not be conclusive evidence of the  
17 future removal or modification of the restriction unless there is no  
18 opportunity or likelihood of the continuation or renewal of the  
19 restriction, or unless a necessary party to the restriction has  
20 indicated an intent to permit its expiration at that time.

21 (d) In assessing land with respect to which the presumption is  
22 un rebutted, the assessor shall not consider sales of otherwise  
23 comparable land not similarly restricted as to use as indicative of  
24 value of land under restriction, unless the restrictions have a  
25 demonstrably minimal effect upon value.

26 (e) In assessing land under an enforceable use restriction wherein  
27 the presumption of no predictable removal or substantial  
28 modification of the restriction has been rebutted, but where the  
29 restriction nevertheless retains some future life and has some effect  
30 on present value, the assessor may consider, in addition to all other  
31 legally permissible information, representative sales of comparable  
32 lands that are not under restriction but upon which natural  
33 limitations have substantially the same effect as restrictions.

34 (f) For the purposes of this section the following definitions  
35 apply:

36 (1) "Comparable lands" are lands that are similar to the land  
37 being valued in respect to legally permissible uses and physical  
38 attributes.

1 (2) "Representative sales information" is information from sales  
2 of a sufficient number of comparable lands to give an accurate  
3 indication of the full cash value of the land being valued.

4 (g) It is hereby declared that the purpose and intent of the  
5 Legislature in enacting this section is to provide for a method of  
6 determining whether a sufficient amount of representative sales  
7 information is available for land under use restriction in order to  
8 ensure the accurate assessment of that land. It is also hereby  
9 declared that the further purpose and intent of the Legislature in  
10 enacting this section and Section 1630 is to avoid an assessment  
11 policy which, in the absence of special circumstances, considers  
12 uses for land that legally are not available to the owner and not  
13 contemplated by government, and that these sections are necessary  
14 to implement the public policy of encouraging and maintaining  
15 effective land use planning. This statute shall not be construed as  
16 requiring the assessment of any land at a value less than as required  
17 by Section 401 or as prohibiting the use of representative  
18 comparable sales information on land under similar restrictions  
19 when this information is available.

20 *SEC. 1.5. Section 402.1 of the Revenue and Taxation Code is*  
21 *amended to read:*

22 402.1. (a) In the assessment of land, the assessor shall consider  
23 the effect upon value of any enforceable restrictions to which the  
24 use of the land may be subjected. These restrictions shall include,  
25 but are not limited to, all of the following:

26 (1) Zoning.

27 (2) Recorded contracts with governmental agencies other than  
28 those provided in Sections 422, 422.5, and 422.7.

29 (3) Permit authority of, and permits issued by, governmental  
30 agencies exercising land use powers concurrently with local  
31 governments, including the California Coastal Commission and  
32 regional coastal commissions, the San Francisco Bay Conservation  
33 and Development Commission, and the Tahoe Regional Planning  
34 Agency.

35 (4) Development controls of a local government in accordance  
36 with any local coastal program certified pursuant to Division 20  
37 (commencing with Section 30000) of the Public Resources Code.

38 (5) Development controls of a local government in accordance  
39 with a local protection program, or any component thereof, certified

1 pursuant to Division 19 (commencing with Section 29000) of the  
2 Public Resources Code.

3 (6) Environmental constraints applied to the use of land pursuant  
4 to provisions of statutes.

5 (7) Hazardous waste land use restriction pursuant to Section  
6 ~~25240~~ 25226 of the Health and Safety Code.

7 (8) (A) A recorded conservation, trail, or scenic easement, as  
8 described in Section 815.1 of the Civil Code, that is granted in  
9 favor of a public agency, or in favor of a nonprofit corporation  
10 organized pursuant to Section 501(c)(3) of the Internal Revenue  
11 Code that has as its primary purpose the preservation, protection,  
12 or enhancement of land in its natural, scenic, historical, agricultural,  
13 forested, or open-space condition or use.

14 (B) *A recorded greenway easement, as described in Section*  
15 *816.52 of the Civil Code, that is granted in favor of a public*  
16 *agency, or in favor of a nonprofit corporation organized pursuant*  
17 *to Section 501(c)(3) of the Internal Revenue Code that has as its*  
18 *primary purpose the developing and preserving of greenways.*

19 (9) A solar-use easement pursuant to Chapter 6.9 (commencing  
20 with Section 51190) of Part 1 of Division 1 of Title 5 of the  
21 Government Code.

22 (10) *A contract where the following apply:*

23 (A) *The contract is with a nonprofit corporation organized*  
24 *pursuant to Section 501(c)(3) of the Internal Revenue Code that*  
25 *has received a welfare exemption under Section 214.15 for*  
26 *properties intended to be sold to low-income families who*  
27 *participate in a special no-interest loan program.*

28 (B) *The contract restricts the use of the land for at least 30 years*  
29 *to owner-occupied housing available at affordable housing cost*  
30 *in accordance with Section 50052.5 of the Health and Safety Code.*

31 (C) *The contract includes a deed of trust on the property in*  
32 *favor of the nonprofit corporation to ensure compliance with the*  
33 *terms of the program, which has no value unless the owner fails*  
34 *to comply with the covenants and restrictions of the terms of the*  
35 *home sale.*

36 (D) *The local housing authority or an equivalent agency, or, if*  
37 *none exists, the city attorney or county counsel, has made a finding*  
38 *that the long-term deed restrictions in the contract serve a public*  
39 *purpose.*

40 (E) *The contract is recorded and provided to the assessor.*

1 (b) There is a rebuttable presumption that restrictions will not  
2 be removed or substantially modified in the predictable future and  
3 that they will substantially equate the value of the land to the value  
4 attributable to the legally permissible use or uses.

5 (c) Grounds for rebutting the presumption may include, but are  
6 not necessarily limited to, the past history of like use restrictions  
7 in the jurisdiction in question and the similarity of sales prices for  
8 restricted and unrestricted land. The possible expiration of a  
9 restriction at a time certain shall not be conclusive evidence of the  
10 future removal or modification of the restriction unless there is no  
11 opportunity or likelihood of the continuation or renewal of the  
12 restriction, or unless a necessary party to the restriction has  
13 indicated an intent to permit its expiration at that time.

14 (d) In assessing land with respect to which the presumption is  
15 un rebutted, the assessor shall not consider sales of otherwise  
16 comparable land not similarly restricted as to use as indicative of  
17 value of land under restriction, unless the restrictions have a  
18 demonstrably minimal effect upon value.

19 (e) In assessing land under an enforceable use restriction wherein  
20 the presumption of no predictable removal or substantial  
21 modification of the restriction has been rebutted, but where the  
22 restriction nevertheless retains some future life and has some effect  
23 on present value, the assessor may consider, in addition to all other  
24 legally permissible information, representative sales of comparable  
25 lands that are not under restriction but upon which natural  
26 limitations have substantially the same effect as restrictions.

27 (f) For the purposes of this section the following definitions  
28 apply:

29 (1) "Comparable lands" are lands that are similar to the land  
30 being valued in respect to legally permissible uses and physical  
31 attributes.

32 (2) "Representative sales information" is information from sales  
33 of a sufficient number of comparable lands to give an accurate  
34 indication of the full cash value of the land being valued.

35 (g) It is hereby declared that the purpose and intent of the  
36 Legislature in enacting this section is to provide for a method of  
37 determining whether a sufficient amount of representative sales  
38 information is available for land under use restriction ~~in order~~ to  
39 ensure the accurate assessment of that land. It is also hereby  
40 declared that the further purpose and intent of the Legislature in

1 enacting this section and Section 1630 is to avoid an assessment  
2 policy which, in the absence of special circumstances, considers  
3 uses for land that legally are not available to the owner and not  
4 contemplated by government, and that these sections are necessary  
5 to implement the public policy of encouraging and maintaining  
6 effective land use planning. This statute shall not be construed as  
7 requiring the assessment of any land at a value less than as required  
8 by Section 401 or as prohibiting the use of representative  
9 comparable sales information on land under similar restrictions  
10 when this information is available.

11 *SEC. 2. Section 1.5 of this bill incorporates amendments to*  
12 *Section 402.1 of the Revenue and Taxation Code proposed by both*  
13 *this bill and Assembly Bill 1251. It shall only become operative if*  
14 *(1) both bills are enacted and become effective on or before*  
15 *January 1, 2016, (2) each bill amends Section 402.1 of the Revenue*  
16 *and Taxation Code, and (3) this bill is enacted after Assembly Bill*  
17 *1251, in which case Section 1 of this bill shall not become*  
18 *operative.*

19 ~~SEC. 2.~~

20 *SEC. 3.* If the Commission on State Mandates determines that  
21 this act contains costs mandated by the state, reimbursement to  
22 local agencies and school districts for those costs shall be made  
23 pursuant to Part 7 (commencing with Section 17500) of Division  
24 4 of Title 2 of the Government Code.